IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 1450 of 2006
To
FIRST APPEAL No. 1451 of 2006
With
CIVIL APPLICATION No. 5522 of 2006
In
FIRST APPEAL No. 1450 of 2006
To
CIVIL APPLICATION No. 5523 of 2006
In
FIRST APPEAL No. 1451 of 2006
With
MISC.CIVIL APPLICATION No. 2388 of 2006
In
CIVIL APPLICATION - FOR STAY No. 5523 of 2006
With
MISC.CIVIL APPLICATION No. 2390 of 2006
In
CIVIL APPLICATION - FOR STAY No. 5522 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE P.B.MAJMUDAR

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SHRI JAYPRAKASH SATYARAM AND ANOTHER
Versus

SHRI DAYANAND M. SHUKLA AND OTHERS

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Appearance :
MR DC DAVE for Appellants.
MR JM TRIVEDI for Respondent No.1.
MR JT TRIVEDI for Respondents No. 1 - 2.
MS JIGNASA B TRIVEDI for Respondents No.1 - 2.
MR BJ TRIVEDI for Respondent No.2.
None for Respondent No.3.
RULE SERVED for Respondent No. 3.2.1
RULE UNSERVED for Respondents No. 3.2.2, 3.2.3, 3.2.4, 3.2.5, 3.2.6, 3.2.7,3.2.8

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CORAM : HONOURABLE MR.JUSTICE P.B.MAJMUDAR

Date : 19/02/2007

COMMON ORAL JUDGMENT

With the consent of the parties, these appeals are taken up for final hearing today.

2) A suit being Civil Suit No.5523/1990 was preferred by respondents no.1 and 2 herein against the heirs of deceased Vaikunthlal Naranlal Trivedi, Another suit being Civil Suit No.5866/1990 was also preferred by respondents no.1 and 2 herein. In the said suit, other two defendants were also added, namely, Gunvantbhai Kapasi and Rameshkumar Amrutlal. Respondents no.1 and 2 had also filed third suit being Civil Suit No.5867/1990 against the heirs of Vaikunthlal Trivedi as well as against Jayprakash Satyaram and one Arvind Mangaldas. First suit was filed for getting decree for specific performance in respect of the suit property. Other two suits were filed for setting aside sale deeds, which were executed during the pendency of the suit. It seems that original owner of the property has sold away the property during the pendency of the suit to two different parties. All the three suits were heard together by the trial Court and by a common judgment dated 6th July, 2005, learned trial Judge has refused decree for specific

performance and granted decree for damages against the present appellants as well as against the heirs of Vaikunthlal Naranlal Trivedi. Against the aforesaid order, the appellants have preferred present appeals.

3) Today, the Court is informed that the parties have settled the dispute and consent terms arrived at between the parties, in connection with each suit, are placed on record. By the consent terms, the original plaintiffs have agreed to accept certain amount as mentioned in the consent terms. Learned advocates for respective parties have identified the signatures of their clients. Resolutions passed by the appellant-associations with regard to the settlement are also placed on record.

4) At the request of the parties, consent terms signed by the parties and the resolutions passed by the appellant-associations are taken on record. In view of the consensus prevailing between the parties, decree of the trial Court passed in Civil Suits No.5523/1990, 5866/1990 and 5867/1990 is substituted by the consent terms arrived at between the parties and the parties are directed to act accordingly. It is also clarified that the original plaintiffs are entitled to withdraw the amount, which might have been deposited by the appellants in the trial Court towards decree of the trial Court with interest accrued thereon.

5) At this stage, Mr.Trivedi, learned advocate for the respondents submitted that cheque in connection with the amount deposited in each of the suit may be handed over to respondent no.1 herein, who is brother of respondent no.2. Accordingly, cheque of the aforesaid amount may be issued in the name of respondent no.2.

6) In view of above, decree of the trial Court is substituted as per the

consent terms arrived at between the parties. Accordingly, both these appeals are disposed of with no order as to costs.

7) In view of above order on main appeals, no order on Civil Applications No.5522/2006 and 5523/2006. Rule issued in both these Civil Applications is discharged with no order as to costs.

8) In view of the order passed in main appeals, learned advocate Mr.Trivedi is not pressing Misc. Civil Applications No.2388/2006 and 2390/2006. Accordingly, Misc. Civil Applications No.2388/2006 and 2390/2006 are disposed of as not pressed. No order as to costs.

9) Writ to be sent to the trial Court forthwith.

(P.B.Majmudar, J.)

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